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SUBMISSIONS OF THE ONTARIO SECTION THE TRUST COMPANIES ASSOCIATION OF CANADA

TO THE ONTARIO COMMITTEE ON TAXATION

(THE SUCCESSION DUTY ACT - THE SECURITY TRANSFER TAX ACT)

SUBMISSIONS

OF

THE ONTARIO SECTION

THE TRUST COMPANIES ASSOCIATION OF CANADA

TO

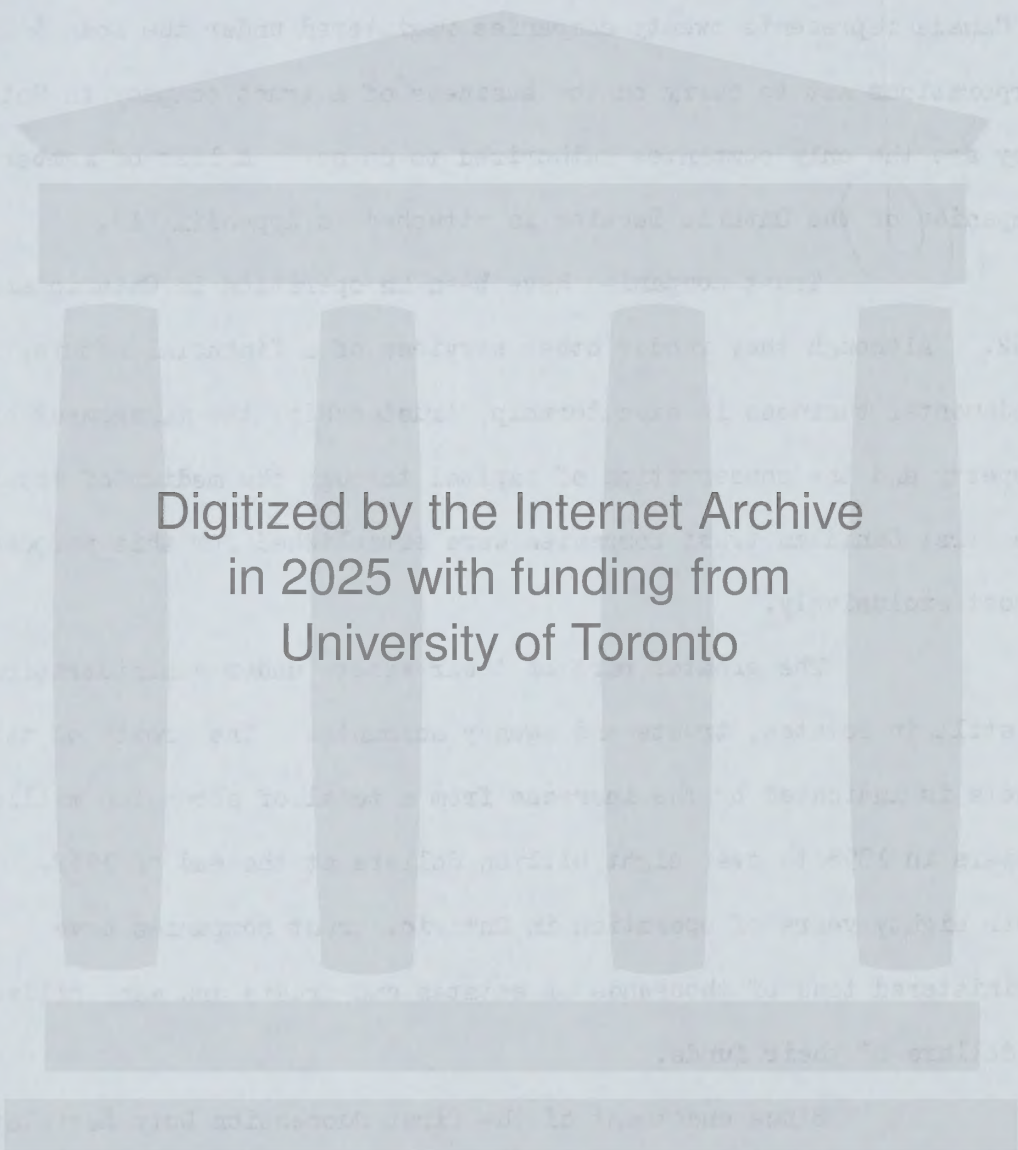
THE ONTARIO COMMITTEE ON TAXATION

The Ontario Section of The Trust Companies Association of Canada represents twenty companies registered under the Loan & Trust Corporations Act to carry on the business of a trust company in Ontario. They are the only companies authorized to do so. A list of member companies of the Ontario Section is attached as Appendix "A".

Trust companies have been in operation in Ontario since 1882. Although they render other services of a financial nature, their fundamental business is executorship, trusteeship, the management of property and the conservation of capital through the medium of trusts. The first Canadian trust companies were established for this purpose almost exclusively.

The greater part of their assets under administration is still in estates, trusts and agency accounts. The growth of these assets is indicated by the increase from a total of about ten million dollars in 1898 to over eight billion dollars at the end of 1962. In their eighty years of operation in Ontario, trust companies have administered tens of thousands of estates and trusts and many billions of dollars of their funds.

Since enactment of the first Succession Duty Legislation in 1892, Ontario trust companies have had a close relationship with the carrying out of the provisions of the Succession Duty Act and they have had extensive experience in this field through day to day contacts with officers of the Succession Duty Department. Accordingly, we feel well qualified to make submissions directed to amelioration of certain substantive and administrative provisions of the Succession Duty Act which in our opinion now give rise to numerous difficulties and hardships.



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One of the other important functions of trust companies is that of agent for corporations. Toronto has the second largest stock exchange in the world in the number of shares traded and the third largest in value of transactions. The greater part of share trading activities in Canada is carried on through the Toronto Stock Exchange. Ontario trust companies act as agents for the transfer and registration of share certificates of many corporations and for the disbursement of dividends.

In 1962 Ontario trust companies handled about two and a half million of the four million share certificates transferred in Canada.

Their experience in the carrying out of the provisions of Federal and Provincial Security Transfer Tax Acts and the examination of millions of share certificates in the course of rendering transfer services over many years encourages Ontario trust companies to feel that their submissions in respect of proposed amendments to the existing Security Transfer Tax Act of Ontario would be of assistance in eliminating some of the problems now connected with the Act.

The Ontario Section of The Trust Companies Association of Canada wishes to make the following submissions with respect to the two Acts referred to, namely, the Ontario Succession Duty Act and The Security Transfer Tax Act:

THE SUCCESSION DUTY ACT

I Firstly, it is recommended that the Ontario Succession Duty Act be suspended in favour of a single Federally administered Act. The revenue derived under this Act, from estates of persons domiciled in Ontario, would be collected by the Federal Government as agent for the Ontario Government. Revenue derived from taxation of property in Ontario, held by persons domiciled outside of Canada, would be retained by the Federal Government.

II In the alternative, it is recommended that the present Succession Duty Act be replaced by an Inheritance Tax Act. The result would be equitable treatment of beneficiaries of estates, either modest or substantial, and recognition would be given to the principle that the Ontario levy is on the beneficiary and not on the estate. Under the Succession Duty Act, which is a combination of estate and inheritance tax, the basic or main rate of duty is determined by the total net value of the estate. This being so, beneficiaries pay either a high or low tax depending on the size of the estate. For example, in one case a beneficiary receiving a $1,000 legacy has to pay approximately 40% in tax, whereas if the same legacy were received from an estate of less value, there may be no tax. Under an Inheritance Tax, only the value of the legacy and the relationship of the beneficiary determines the tax, and it is obvious that this form of levy is more equitable. It is agreed that the change would probably necessitate a revision of the tax rates structure to maintain the same level of taxation, but this in itself should not create any difficult problem and this might well result in a simple table of rates which would be beneficial to all concerned. It may be pointed out that in modern day enactment or streamlining of death tax legislation, the tendency has been to accept the inheritance principle rather than that of succession duty.

III Whether or not recommendations I or II are acceptable, there are a number of amendments and changes which in the opinion of this Association should be made to the present Ontario Succession Duty Act, namely:

(1) EXEMPTIONS

It is recommended that all estates up to $100,000 in value should be exempt from duty. Further, when the estate exceeds $100,000 in value and the deceased is survived by a spouse and/or dependent children, there should be an exemption of $100,000 for the widow and $25,000 for each dependent child.

III (1) Continued.

Basic exemptions have not changed to any extent for many years, and have not kept pace with inflationary tendencies and present-day accustomed living standards. Many estates up to $100,000 in value include the family residence and other non-income producing assets. Hardship frequently results. The increase in exemption would not appear to substantially reduce the revenue of the Government. It would, of course, reduce their costs of operation and help speed up administration.

(2) CHANGE IN CLASS OF BENEFICIARIES

We submit that a brother and sister of the deceased presently treated as a beneficiary of the collateral class should be included in the preferred class of beneficiaries for the purpose of striking the rates of duty applicable to such beneficiary. Such an amendment as proposed would recognize the close relationship of the brother and sister of the deceased to the latter, and would, in our opinion, be in conformity with the existing list of beneficiaries in the preferred class.

(3) QUICK SUCCESSIONS

There is no provision in the Act for relief from double taxation in the event of quick successions, a condition which can exact untold hardship, particularly where the ultimate beneficiaries are closely related, such as the husband or wife and minor children.

It is recommended the Act be amended to provide that in the case of quick successions, property passing on the first death should, within one year, be totally deducted from the estate of the second decedent at the lesser of its value in the two estates. Each year thereafter, the amount deducted would decrease by 20% so that after five years there would be no deduction by reason of quick succession. It is, of course, understood that the property would have to be identified in each estate.

III (j) Continued.

Basic exemptions have not changed to any extent for many years, and have not kept pace with inflationary tendencies and present-day accustomed living standards. Many estates up to $100,000 in value include the family residence and other non-income producing assets. Hardship frequently results. The increase in exemption would not appear to substantially reduce the revenue of the Government. It would, of course, reduce their costs of operation and help speed up administration.

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III Continued

(4) PRIVATE COMPANIES

Where a private company comprises a major portion of an Estate, payment of the Duty may well present to the Successors a problem of insufficient liquidity. We acknowledge the existence of Section 23 of the Act, whereby the Lieutenant Governor may by Order-in-Council ameliorate what appears to him an unduly onerous time for payment of Duty, but for practical purposes, we are unable to see what workable significance this provision has. In its stead, we submit that in such circumstances, a portion of the liability to Duty be deferred for a period of time; this period may be a fixed number of years, or recognizing that circumstances vary, may be left open to negotiation by the Department, the personal representative and the Successors.

(5) DEDUCTIONS FOR INCOME TAX

We suggest that Section 3(2) of the Act which reads as follows:

> "In valuing any security, or any business or any interest in any business, the fact that any tax under the Income Tax Act (Canada) or any similar tax may be or become payable by reason of or in respect of the payment or distribution of any accumulated surplus or other property to the holder of such security or to any person having an interest in such business, shall not be taken into consideration, unless and to the extent only that such distribution is necessary and is made for the purpose of raising money for the payment of duty"

should be amended by striking out the word "not" in line 7 and all of the words commencing with "unless" and ending with the word "duty", so that the section should read:

> "In valuing any security, or any business or any interest in any business, the fact that any tax under the Income Tax Act (Canada) or any similar tax may be or become

III (5) Continued.

payable by reason of or in respect of the payment or distribution of any accumulated surplus or other property to the holder or such security or to any person having an interest in such business, shall be taken into consideration".

(6) ALTERNATIVE VALUATION DATE

Basically the Succession Duty Act provides that the property of the deceased shall be valued as at the date of death. Under the United States Federal Estate Tax Act, the Executor has the opiton of revaluing the Estate one year from the date of death, and any assets sold during the year are included at the realized value. This has a great deal of merit, for in practice, the Executor does not have the opportunity of selling an Estate asset on the day it is valued for Duty purposes. In our opinion, it would be more equitable for Executors in Ontario also to have the alternative of valuing the assets for tax purposes at a time when, in the normal case, the assets can be realized. It is our submission that a period of six months would be sufficient in Ontario; it should under normal circumstances provide an Executor with ample opportunity to put the Estate into order. If our submission is found acceptable to this Commission, then on the introduction of such a provision, any asset which is realized between the date of death and the alternative valuation date would be included for Duty purposes at the amount for which it had been realized. The result would mean that the Estate would be taxed only on the values which are in fact available to it.

(7) UNIFORMITY OF VALUATIONS

The Provincial Government should accept from the personal representative in order to eliminate duplication, a certified copy of the Estate Tax Return together with certified copies of all Returns for subsequently discovered assets, debts and affidavits filed under the Estate Tax Act. Since the Estate Tax Office proceeds under exactly the same principles as Ontario with regard to valuations and applies the same rules of fair market value, the results of the findings as to the gross estate for tax purposes should be identical. As a matter of public policy also,

III (7) Continued

it is desirable that the results be identical. Nevertheless experience shows they are not. The Ontario Department should dispense with its valuating staff, and require the personal representative to file certified copies of the Estate Tax Assessment, and apply the Ontario Tax structure to the values of assets so found. This would eliminate duplication of work by the personal representative and reduce the administrative costs of the Ontario Department with no lowering of revenues. Alternatively, while it may be likely that the Ontario Department does not wish to yield its control of valuation, then we propose that some liaison should be established so that in fact, an agreed valuation is ascertained by the two departments and the personal representative. If the situation occurs that this cannot be done by agreement, we submit that an official referee or arbiter be created who would have the authority to settle valuations to be used by both departments.

(8) GIFTS INTER-VIVOS

The Ontario Succession Duty Act exempts from duty absolute dispositions made more than five years prior to the death of the donor, where the donor did not reserve any rights in the property. It is suggested that this period is too long, and it is recommended that the Act be amended so that only dispositions made within three years prior to death be included for duty purposes. This would mean that the Succession Duty Act in effect would conform to the Estate Tax Act in this respect.

(9) TEST FOR LIFE INSURANCE POLICIES TO BE OWNERSHIP OF THE POLICY

With respect to insurance policies, we submit that the ownership test employed by the Federal Department should be applied by Ontario also.

(10) WAIVER OF DUTY

It is recommended that if the total Succession Duty in any estate does not exceed $100,00 no tax should be exigible.

(11) NON RESIDENT ESTATES

It is recommended that estates of decedents domiciled outside of Ontario having Ontario assets should be exempt up to $2,000.00 and no consent should be required. The bank, trust company or transfer

III (11) Continued

agent could require in lieu of consents an affidavit to be completed by the non-resident representative, certifying that the estate in Ontario did not exceed the sum of $2,000.00

(12) SUGGESTED ADMINISTRATIVE CHANGES

(a) EXECUTOR'S BOND

It is often most difficult for an executor to proceed with the efficient administration of an estate because he or she cannot obtain all the releases covering the assets of the estate. It is recommended that provision should be made for the filing of an Executor's bond in a form satisfactory to the Department, so that immediate release of all the assets can be obtained, as soon as the requisite papers have been filed.

(b) INTEREST ON DEPOSITS

In line with current interest rates, it is recommended that interest on monies deposited to secure duty should be increased from 3% to 4% per annum, particularly as the rate of interest on monies owing to the department was recently increased from 5% to 6% per annum.

(c) CONSENTS FOR TRANSFER OF AUTOMOBILES

Due to the fact that automobiles present a major problem to an executor in many instances immediately following death because of insurance liability, it is recommended that the regulations be amended so that no consents are required from the department to transfer an automobile.

(d) OUT-OF-TOWN VALUATIONS ON REAL ESTATE

We are fully cognizant of the limitations of the department in regard to staff. However, it is suggested that valuations on real estate outside the Toronto area should be speeded up to enable the executor to receive confirmation of valuations within a reasonable time.

(e) STATEMENTS

The present position and procedure of the Department in respect of their issuance of duty statements should be clarified. Statements are presently issued after an election by the executors to pay all of the duties on such a basis, but the Department only issues what is called "tentative statements" and reserves the right to adjust their claim in the event of distribution of the estate being otherwise than in the

III (12) (e) Continued

statement. When a revision is required, no re-valuation of the assets should occur. It may be necessary that there be an amendment to the Act to accomplish this result.

(f) LISTING OF CONTENTS OF SAFETY DEPOSIT BOXES

It is our submission that the procedure for the listing of contents of a Safety Deposit Box or other repository be made uniform throughout the Province. In some large centres, it is necessary to wait until the Department can have its representative attend for the listing whereas, in other areas, an officer of the repository institution acts as agent for the governments. The present procedure causes administrative delay and unnecessary expense to the government. Hence, we submit that the Departmental procedure of the Ontario Succession Duty Office be amended so as to direct the officers of such institutions to prepare in the presence of the personal representative a list of the contents of a Safety Deposit Box or other repository, to certify copies thereof, and to forward same to the Federal and Provincial Departments.

THE SECURITY TRANSFER TAX ACT AND REGULATIONS

The Security Transfer Tax Act as originally introduced was a form of corporation tax and was intended to produce a large amount of revenue for the province. In its present form the tax is imposed generally upon every change of ownership consequent upon a sale, transfer or assignment of a security made or carried into effect in Ontario.

In 1962, the tax collected and remitted to the Provincial Treasurer by transfer agents, The Toronto Stock Exchange, brokers, bond dealers, investment dealers, banks and others amounted to $3,535,000.

Each year trust companies and other organizations transfer several million share certificates. In order to fulfil the provisions of the Act and Regulations close examination of each certificate is necessary to determine whether or not tax is payable, and documentation is required in many cases. Because of the complex nature of the tax and the numerous exemptions allowed, many difficulties and delays are encountered in ascertaining exigibility of the tax. Frequently, rulings and interpretations are sought from the Security Transfer Tax Department. These cumbersome requirements cause a vast amount of administrative and clerical work and correspondence and result in delays and inconvenience to other financial organizations as well as to the investing public.

The 3% fee received by trust companies as commission represents only a fraction of the cost of collection. The amount collected is no indication of the work and responsibility involved in fulfilling the requirements of the Act and Regulations.

The Ontario Section of The Trust Companies Association of Canada welcomes the opportunity to make submissions in connection with the Security Transfer Tax Act and Regulations because it believes the suggestions it has to offer, if adopted, would facilitate and simplify collection of this tax on an increasing volume of certificate transfers without significantly affecting revenue.

For these reasons this Association respectfully requests the Ontario Taxation Committee to give consideration to the following:

Under the provisions of the Security Transfer Tax Act and Regulations, trust companies and others concerned are required to assume the following duties and responsibilities in respect of each share certificate transferred by them:

i. Examine each allotting resolution and treasury direction and consider whether or not transfer tax is exigible.

ii. Examine each share certificate to be transferred and consider whether or not tax is exigible even though the vast majority of certificates already bear certification indicating that the tax has been paid.

iii. Where a tax exempt certification appears on a certificate, consider whether or not it is acceptable under the Act and Regulations.

iv. Where the Regulations require the production of certain documents to verify the validity of a claim for tax exemption, obtain the necessary documents.

v. Engage in considerable correspondence and numerous telephone discussions with out-of-town and local brokers, banks and shareholders in asking for tax that was not paid when certificates were first presented for transfer; in requesting the production of required documents and in explaining the Act and Regulations and the necessity of producing documents asked for to prove no change of ownership.

(*) So much time and effort is required in some cases to collect tax payable, that where the amount involved is small, some trust companies pay the tax themselves rather than incur the further costs of collection.

Where a company's stock is on record for a dividend and tax is not paid or certified, trust companies often complete a transfer to enable transferees to recieve the dividend direct, pay the tax them-

selves and charge it to the broker or person presenting the stock for transfer. This practice avoids inconvenience, delay and costly subsequent adjustment of dividend claims. In these cases transfer agents feel that the risk of non-collection of tax and possible resulting financial loss is justified in order to avoid criticism and bad public relations with principal companies and shareholders.

In 1962 Ontario Trust Companies transferred 2,574,761 share certificates, collected gross transfer tax of $291,260.98 of the total of $3,535,000 from all sources and received in commission for collection at the rate of 3% the sum of $8,737.80. For each certificate transferred, therefore, trust companies received .34 of one cent to cover the cost of all services required in connection with collection of the tax including out-of-pocket expenses referred to in paragraph (*)

From the experience of trust companies it is apparent that the responsibility, work and cost that is incurred in carrying out the provisions of the Security Transfer Tax Act and Regulations is out of all proportion to the gross amount of tax collected by them. It is apparent, also, that the commission received of a fraction of a cent per certificate represents only a small part of the cost of collection.

The greater part of the cost to trust companies under present provisions of the Act and Regulations is in determining whether tax is payable. The total tax collected, therefore, is no indication of the number of certificates examined and the amount of administrative work and correspondence required to determine exigibility and collect the tax, particularly from out-of-town brokers and individuals.

In comparison with the difficulties incurred in determination of exigibility and collection of the Security Transfer Tax, the collection of such taxes as the race track tax, the gasoline tax and even the sales tax is relatively free from administrative problems and inconvenience to all concerned. These taxes can be ascertained and collected by mechanical process which involves little time and expense, although the rate of commission received may be the same.

The Toronto Stock Exchange remits tax upon sales made each day. The amount, which is based on per share value, is determined by mechanical means. Therefore, The Toronto Stock Exchange is not put to the necessity of applying the numerous provisions of the Act and Regulations and their interpretations, and does not have the administrative problems that are encountered by transfer agents and other organizations in the collection of this tax.

In the light of the cost to trust companies, it is obvious that the commission received for collection is totally inadequate.

The Association submits that much of the administrative work required to determine exigibility and collect the tax could be eliminated by simplification of the Act and Regulations and their interpretation and application. We therefore recommend:

(1) that transfer agents be allowed to rely completely on a certification in general form signed by the transferor or transferee or their fiscal agent with respect to Section 22 of the Regulations.

(2) that the necessity of obtaining documents to prove no change of ownership be eliminated.

(3) that transfer agents be allowed to rely on tax certifications signed by "registered resident brokers"

(4) that the Act and Regulations be amended to provide

(a) that the existing rate of tax on shares selling at less than $1.00 per share be changed from 1/10 of 1% of the price or value to 1/20 of 1 cent per share. (See Security Transfer Tax Act, Section 3 (2) (vii))

(This change would simplify calculation of the tax on lower price securities.)

(b) that where the tax on any transaction would be less than 25¢ no tax should be exigible.

(5) that no tax be exigible on the transfer of shares into the name of a beneficiary of the estate of a deceased person.

(NOTE: As the result of reciprocal arrangements made between Ontario and Quebec Governments, as well as by interpretation of Regulations made under the Ontario Act:

"registered resident broker" means an Ontario or Quebec broker registered under appropriate Acts in Ontario and Quebec;

"stock exchange" means the Toronto, Montreal or Canadian Stock Exchange and no other.)

To summarize:

This Association recommends:

(1) that the commission paid for collection of Security Transfer Tax be increased from the present rate of 3%.

(2) that the Act and Regulations be amended to provide for

(a) acceptance of a form of general certification

(b) elimination of requirements for documentation

(c) a change in the rate of tax on shares under $1.00

(d) elimination of collection of tax where the amount is under 25¢

(e) elimination of the tax on transfers to beneficiaries.

Total transfer tax revenue in 1962 was $3,535,000 of which trust companies collected only a small fraction amounting to $291,260.98. Collection of this amount was effected by examination and application of the Act and Regulations in respect of several million share certificates, whereas the larger part of the balance of $3,535,000 obtained from the tax was collected by other organizations through mechanical means. These facts indicate that responsibility for collection of the tax bears most heavily upon trust companies who do a great amount of work for little compensation. This situation seems to us to be manifestly unfair.

Accordingly, this Association feels that in any review of taxation and its effect on the economy, which is closely connected with the cost of doing business, serious consideration should be given to the recommendations made in these submissions with respect to reduction of the amount of work required to be done in carrying out the provisions of the Security Transfer Tax Act and Regulations.

The Association feels that the suggested changes, if adopted, would not materially affect the revenue from this tax, but would decrease substantially the effort and cost incurred in collection of the tax not only by trust companies but by the Security Transfer Tax Department itself.

December, 1963.

APPENDIX "A"

MEMBER COMPANIES - ONTARIO SECTION

THE TRUST COMPANIES ASSOCIATION OF CANADA

British Mortgage & Trust Company

Canada Permanent Trust Company

The Canada Trust Company

Crown Trust Company

Eastern and Chartered Trust Company

Guaranty Trust Company of Canada

Halton & Peel Trust & Savings Company

The Industrial Mortgage and Trust Company

The Lambton Trust Company

Montreal Trust Company

Metropolitan Trust Company

National Trust Company Limited

Northland Trust Company

The Premier Trust Company

The Royal Trust Company

The Sterling Trust Company

Victoria and Grey Trust Company

The Waterloo Trust and Savings Company

York Trust and Savings Corporation

THE TRUST COMPANIES ASSOCIATION OF CANADA
302 Bay Street
Toronto 1, Ontario

Ontario Section

Secretary-Treasurer
W. R. Scott

January 30, 1964.

Mr. Warren Hurst,
Executive Director,
Ontario Committee on Taxation,
88 University Avenue,
Toronto 1, Ontario.

Dear Mr. Hurst,

At the hearings of the Ontario Taxation Committee, at which representatives of this Association discussed among other matters, The Security Transfer Tax Act, a question was raised as to why our submissions had not included the recommendation for abolition of this Act.

Naturally, of course, since we feel that administration of the Act imposes a substantial burden on trust companies, and the fees received represent only a fraction of the cost of administration, we should be happy to see the Act abolished. A major reason for not making this recommendation was because we are not in a position to suggest any other type of tax to provide the revenue now obtained from this source.

However, on several previous occasions we have made representations to the Government to abolish this tax. Attached are copies of a letter dated November 3rd, 1953, by L.G. Goodenough, the Association's then counsel, to the Honourable Leslie M. Frost, Q. C., Prime Minister & Treasurer of Ontario. These submissions state our reasons for recommending abolition of the tax, and include some historical background in connection with the origin and reason for this tax which may be of interest to The Ontario Taxation Committee.

If there is any other way in which we can be of assistance to the committee, I should be glad if you would let me know.

Yours very truly,

W. R. Scott,
Secretary-Treasurer.

Enclosure

SINCLAIR, GOODENOUGH, HIGGINBOTTOM & McDONNELL

Toronto 1, Canada

November 3rd, 1953.

Honourable Leslie M. Frost, Q.C.,
Prime Minister & Treasurer of Ontario,
Parliament Buildings,
TORONTO, Ontario.

Sir: Re: Security Transfer Tax

The Trust Companies Association of Ontario have instructed us to request that further consideration be given by your Government to the repeal of the Security Transfer Tax Act.

The main reasons for the Association's submission that the transfer tax should be abolished are:

(1) that the tax, while producing a comparatively small amount of revenue (about ½ of 1% of the provincial revenues), is a constant nuisance and source of annoyance to trust companies, investment dealers, brokers, lawyers and others who have been made responsible for collecting and administering the tax, and the public generally;

(2) the burdensome cost in time and money incurred by trust companies and others in collecting and remitting the tax, settling disputes as to liability to the tax, and maintaining voluminous records;

(3) that the transfer of securities is an unwieldy and out-moded object for taxation under modern conditions.

The experience of the Trust Companies, lawyers and others is that in the transferring of stocks and bonds from one person to another the most common cause of delay and irritation is the Security Transfer Tax.

The amount of tax payable in connection with transactions where speed is important is often only a few cents. Frequently one of the parties to a stock or bond transaction either overlooks or is unaware of the transfer tax, and this results in delay and complaints. Rather than take the time and incur the expense of collecting the tax, some trust companies are themselves paying and absorbing the tax where the amounts payable are small.

Numerous cases arise wherein the application of the transfer tax is uncertain and there is a difference of opinion as to whether the tax is exigible. This feature of the tax is particularly troublesome in dealings involving persons outside Ontario. That the collection and administration of this minor tax is not a simple matter may be readily appreciated upon examining Regulation Number 23, which lists thirty-three types of security transactions that are deemed to be non-taxable. Specific rulings from your Department are often necessary in order to settle disputes as to liability to the tax. Considerable time is wasted by Trust Companies and others in determining the taxability of a transaction from which ultimately no tax is collected.

Under the Regulations, a vast amount of documentation - certified copies of trust agreements, agency agreements and brokers certifications and memoranda setting out the details of each transaction - must be assembled and preserved in the offices of Trust Companies, brokers, bond dealers, lawyers acting for private companies, and others. The onerous requirements of Regulation 18 respecting agency transactions are indicative in this respect. In this connection also fulfilment of the duties and responsibilities

placed upon the Trust Companies by the Act and Regulations necessitates the maintenance of costly storage of records and certificates over long periods of time.

It is difficult to estimate the cost to Trust Companies of time and money spent in collecting and administering the Transfer Tax. After a careful study over several years, the companies' costs appear to be in excess of 25% of the amount of tax collected by them. It is considered that the 3% collection fee allowed by the Province covers less than 10% of the companies' costs.

In comparison with the complex nature of the Security Transfer Tax, the collection of such taxes as the race-track tax and the gasoline tax is simple and free from administrative difficulty.

It should also be drawn to your attention that in a substantial number of taxable transfers of securities, payment of the tax is ignored. Stocks and bonds in "street" or bearer form may pass through several hands in such a way that no records are kept and the taxing authority never becomes aware of the transactions.

An investigation into the history of the transfer tax discloses that it was introduced in Ontario in 1911 as a form of tax on Corporations. In fact, the legislation imposing it formed part of the Corporation Tax Act until the year 1939. It was reported in the newspapers of the time that when introducing the new tax measure (Bill No.177) in 1911 the then Provincial Treasurer, the Honourable A.J. Matheson, stated that the new tax was expected to produce more revenue than any other type of tax based on the income and capital of corporations. In other words, the transfer

tax was originally a primary form of corporation tax. It was devised at a time when the tax structure and the mechanics of financial transactions were entirely different from those of to-day. Over the years, the tax on corporate income has become the main source of revenue from corporations and it is submitted that the tax on transfers of securities has been adequately replaced. At recent meetings attended by representatives of the Stock Exchange, the Brokers Association, the Investment Dealers Association, the Trust Companies Association, the Mining Companies Association, and others, it was the unanimous opinion that under modern conditions the transfer tax is an archaic and cumbersome form of taxation, that it has become a great nuisance to all concerned, and should be abolished.

Respectfully submitted,

Yours very truly,

"L.G. Goodenough"

LGG:jb

THE TRUST COMPANIES ASSOCIATION OF CANADA
302 BAY STREET
TORONTO 1. ONTARIO

Ontario Section

May 7, 1964

The Chairman and Members,
Ontario Taxation Committee.

Gentlemen:

BUSINESS ASSESSMENT OF ONTARIO TRUST COMPANIES

The Ontario Section of The Trust Companies Association of Canada appreciates this opportunity to make submissions with respect to business assessment of trust companies, following the suggestions made previously in connection with the Succession Duty Act and The Security Transfer Tax Act.

This Association draws attention to the fact that under the present Assessment Act, RSO/1960 Chapter 23 Section 9, municipalities are authorized to levy business assessment based upon value of the land occupied. Various types of business are hereafter placed in arbitrary categories, apparently, according to ability to pay. Accordingly, trust companies, life insurance companies, banks and investment dealers in Ontario are placed in the highest category except for distillers of beverage alcohol, whose category is 150%. The tax imposed on trust companies equals 75% of the property tax on the property they occupy and compares with a rate of 60% for manufacturers, 50% for stock brokers and 25% for most retailers.

Trust companies and other financial institutions, therefore, are not only discriminated against compared to other types of business, but it is our understanding that they are taxed more heavily than corresponding financial institutions in Quebec, Alberta and British Columbia.

We submit that there is no reason why trust company premises should be classified as they are at the present time.

Trust companies provide a wide range of services, including those of executor, trustee, financial agent, depository for savings, investment management and others. The services rendered by a municipality to this type of business are in a minimum category, having regard to the size and value of the premises occupied.

Whether business tax as such should be assessed at all is a matter which may be open to question. Whether business assessment should be based upon a percentage of property value, upon the rental value of the property or by other means, this Association is not prepared to say.

We urge upon this Committee that in its study of taxation in Ontario, consideration should be given to whether a business assessment, as such, should be imposed. If the Committee feels that this form of taxation should be continued, we respectfully suggest that assessment be made on a basis that is fair and equitable to all business organizations and that the present method of classification which is unjust, arbitrary and discriminatory, should be eliminated.

Respectfully submitted,

F. A. Wansbrough
Chairman, Ontario Section.

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